

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

ARNOLDO MENDOZA LEPEZ,)	
)	
Movant,)	CIVIL ACTION NO.
)	5:18-CV-038-C
v.)	CRIMINAL NO.
)	5:17-CR-040-02-C
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

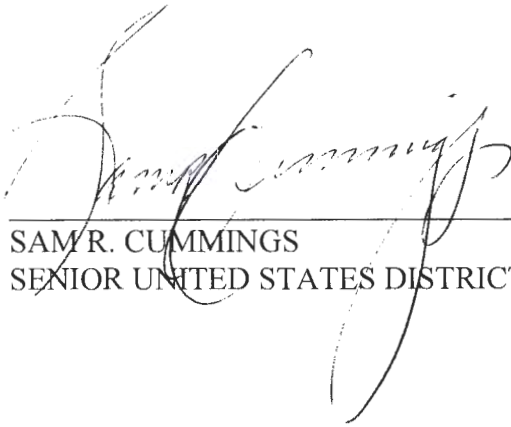
ORDER

Before the Court are the Findings, Conclusions, and Recommendation of the United States Magistrate Judge advising that Movant Arnoldo Mendoza Lepez's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 be granted to allow Lepez to file an out-of-time appeal based upon a finding that Lepez's defense counsel's performance did not fully satisfy the requirement of the Sixth Amendment as outlined by the Supreme Court in *Flores-Ortega* and applied in this Circuit by *Pham*. The Magistrate further recommends that the Court reinstate the judgment in criminal case number 5:17-CR-040-C-2. The Government declined to file formal objections and has acquiesced to the Court granting Lepez the right to file an out-of-time appeal.

The Court has reviewed the Findings, Conclusions, and Recommendation for clear error and finds none. It is therefore **ORDERED** that the Findings, Conclusions, and Recommendation are hereby **ADOPTED** as the findings and conclusions of the Court. For the reasons stated therein, the Court **ORDERS** that Movant Arnoldo Mendoza Lepez's Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 be **GRANTED** to allow Lepez to file

an out-of-time appeal based upon the finding that Lepez's defense counsel's performance did not fully satisfy the requirement of the Sixth Amendment as outlined by the Supreme Court in *Flores-Ortega* and applied in this Circuit by *Pham*. The Court further **ORDERS** that the judgment in criminal case number 5:17-CR-040-C-2 be **REINSTATED**.

SO ORDERED this 29th day of January, 2019.

A handwritten signature in black ink, appearing to read "Sam R. Cummings", is written over a horizontal line. The signature is fluid and cursive.

SAM R. CUMMINGS
SENIOR UNITED STATES DISTRICT JUDGE